

REMARKS

In the Office Action mailed June 26th, 2006, the Examiner took the following action: (1) rejected claims 1-30 under 35 U.S.C. §103(a) as being unpatentable over Singer *et al.* (US 5,634,424) in view of Pischke (US Pub. 2005/0055180). Applicants respectfully request reconsideration of the application in view of the foregoing amendments and the following remarks.

I. Rejections of claims under 35 USC § 103(a)

Applicants respectfully note that the provisions of 35 U.S.C. § 103(c) of the American Inventors Protection Act regarding subject matter that qualifies as anticipatory art under 35 U.S.C. § 102(e) apply to Pischke (US Pub. 2005/0055180). Accordingly, Pischke may not be used to preclude the patentability of the pending claims, and the rejections of claims 1-30 under 35 U.S.C. § 103(a) must be withdrawn.

Applicants submit that Pischke (US Pub. 2005/0285774) qualifies as anticipatory art only under 35 U.S.C. § 102(e) because (A) Pischke is a U.S. Patent Application with a filing date (September 8th, 2003) earlier than the effective filing date of the subject application (September 30th, 2003), with a publication date (March 10th, 2005) that is not more than one year prior to the effective filing date of the subject application, and (B) the inventive entity of the subject application (Conchi *et al.*) is different than that of the cited reference (Pischke). See MPEP § 706.02(a).

Furthermore, Pischke is assigned to The Boeing Company, as evidenced by the assignment filed and recorded at Reel 014482 and Frame 0917. Applicants respectfully submit that, at the time the subject matter of the present application was made, it was owned by, or subject to an obligation of assignment to, the same entity, namely The Boeing Company, as evidenced by the assignment filed herein and recorded at Reel 014572 and Frame 0158.

Under the American Inventor's Protection Act, 35 U.S.C. § 103(c) as amended provides that art "which qualifies as prior art under one or more of subsections (e) (f) and (g) of section 102 shall not preclude patentability under this section ...where the subject matter was at the time the invention was made, was owned by the same person or subject to an obligation of assignment to the same person." See MPEP § 706.02(I)(1). Because 35 U.S.C. § 103(c) applies, Pischke may not be used to preclude the patentability of pending claims 1-30.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections of pending claims 1-30 under 35 USC § 103(a) as being unpatentable over Singer *et al.* in view of Pischke.

CONCLUSION

For the foregoing reasons, Applicants respectfully submit pending claims 1-30 are now in condition for allowance. If there are any remaining matters that may be handled by telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

Respectfully Submitted,

Dated: Sept. 25, 2006

By: _____

Dale C. Barr
Dale C. Barr
Lee & Hayes, PLLC
Reg. No. 40,498
(206) 315-7916